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Filing date: **09/06/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91167207
Party	Plaintiff MS. ANITA DHALIWAL
Correspondence Address	R. JOSEPH TROJAN TROJAN LAW OFFICES 9250 WILSHIRE BLVD SUITE 325 BEVERLY HILLS, CA 90212 UNITED STATES trojan@trojanlawoffices.com
Submission	Motion to Extend
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Filer's e-mail	trojan@trojanlawoffices.com, mirsky@trojanlawoffices.com
Signature	/R. Joseph Trojan/
Date	09/06/2007
Attachments	Motion Extend Test Period.pdf ( 4 pages )(142732 bytes ) Mirsky Dec. Test. Ext.pdf ( 4 pages )(142729 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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DVD WORLD PICTURES CORP.

Applicant,

v.

ANITA DHALIWAL,

Opposer.

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**Opposition No. 91167207  
Application No. 78/495856**

Office of the Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Attention: Trademark Trial and Appeal Board

**REQUEST FOR PERMISSION TO EXTEND  
OPPOSER'S TESTIMONY PERIOD**

Opposer Anita Dhaliwal ("Opposer" or "Dhaliwal") hereby moves to extend it's testimony period in this Opposition proceeding against Applicant DVD World Pictures Corp. ("Applicant").

**I. FACTS**

On July 18, 2007, the Board denied Opposer's motion for reconsideration of the Board's denial of Opposer's motion for summary judgment. At this time, the Board also resumed proceedings, issued new trial dates, and set Opposer's testimony period to close on September 20, 2007.

On August 22, 2007, Opposer sent via electronic mail, a deposition notice to Applicant, noticing the deposition Mr. Eddie Papetti, the President of DVD World on September 6, 2007 at 11:00 a.m. EDT, or such other date and time upon which counsel shall agree. *See* Lauren Mirsky Decl. ¶ 3. On August 29, 2007, Applicant's counsel had yet to confirm Applicant's availability on September 6, and Opposer emailed Applicant's counsel requesting confirmation by August 31, 2007. *See* Lauren Mirsky Decl. ¶ 4. On August 29, 2007, Applicant's counsel responded and stated that they would not be able to proceed with the scheduled deposition and would contact us by the close of business on August 31. *See* Lauren Mirsky Decl. ¶ 5. On August 31, 2007 Applicant's counsel informed us that it had yet to receive a confirmation from Applicant regarding availability and that we would be contacted the following week. *See* Lauren Mirsky Decl. ¶ 6.

On September 4, 2007 we emailed Applicant's counsel twice requesting confirmation, noting the testimony period was scheduled to close on September 20, 2007, and that if we were unable to come to an agreement upon dates by the close of business on September 5, we would be requesting a stipulation to extend our testimony period. *See* Lauren Mirsky Decl. ¶ 8. On September 5, 2007, Applicant's counsel informed us via electronic mail that it would be withdrawing as Applicant's counsel and that Applicant had engaged new counsel, however it was unaware as to the identity of Applicant's new representation. *See* Lauren Mirsky Decl. ¶ 9.

Immediately upon receiving notification from Applicant's counsel that it would no longer be representing Applicant, Opposer's counsel began drafting this motion for a request to extend the time of the testimony period. *See* Lauren Mirsky Decl. ¶ 11.

## **II. LEGAL STANDARD**

Under Federal Rule of Civil Procedure 6(b), as applies to Board proceedings through 37 C.F.R. § 2.116(a), a party may file a motion to extend the time for which a required act must be done. *See* TMBP 509.01. Furthermore, if the motion is filed prior to the expiration of the originally set period, the movant is only required to show good cause for the requested extension. *See* TMBP 509.01.

## **III. ARGUMENT**

There is good cause to grant Opposer's request to extend the testimony period. Opposer's counsel contacted Applicant's now former counsel via electronic mail on four separate occasions since August 22, 2007 in an attempt to schedule Mr. Papetti's deposition.

### **A. The facts have been stated with particularity.**

Under TMBP § 509.01(a), the motion "must set forth with particularity the facts said to constitute good cause for the requested extension." *See* TMBP § 509.01(a). Here, Opposer has stated the facts with particularity as provided in the Background section as well as in the Declaration of Lauren Mirsky.

### **B. The request to extend time is not a result of Opposer's own lack of diligence.**

Under TMBP § 509.01(a), the movant must demonstrate the requested extension of time is not the result of the movant's own lack of diligence. *See* TMBP § 509.01(a). Here, Opposer has made extremely diligent efforts to comply with the Board's prescribed testimony period.

First, the Opposer emailed Applicant on five separate occasions between August 22, 2007 requesting confirmation of Opposer's requested September 6, 2007 deposition date, or in the alternative, for Applicant to propose acceptable dates. Second, the Opposer asked Applicant on September 4, 2007 if Applicant would be willing to stipulate to an extension of Opposer's

testimony period, should they be unable to reach a mutually acceptable date. Third, the very day that Opposer was informed that Applicant's counsel was withdrawing, and not knowing who Applicant's new counsel was, or when Opposer would find out who Applicant's new counsel was, Opposer began preparing this motion to extend the testimony period.

Opposer has taken every possible step to attempt to comply with the Board's testimony period. Furthermore, Opposer is filing this motion to extend time well in advance of the expiration of the testimony period to show the diligence that Opposer is taking.

#### **IV. CONCLUSION**

For the foregoing reasons, Opposer respectfully submits that the Board re-set the testimony period, giving Opposer a full 30 days beginning one month after being notified of who Applicant's new counsel is, in order to provide adequate time for both sides to coordinate their calendars.

Date: September 6, 2007

Respectfully submitted,

/R. Joseph Trojan/  
R. Joseph Trojan  
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9250 Wilshire Blvd., Suite 325  
Beverly Hills, CA 90212

Attorney for Applicant,  
Anita Dhaliwal

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Attorney for Applicant,  
Anita Dhaliwal